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MAR 24 1999

Federal Communications Commission  
Office of Secretary  
North American  
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Covington, Louisiana 70433  
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11 March 1999

File #1990

VIA TELECOPY & FEDERAL EXPRESS

Ms. Colleen K. Heitkamp  
Federal Communications Commission  
2025 M Street, N.W.  
Washington, D.C. 20554

CC DOCKET NO. 94-129

DOCKET FILE COPY ORIGINAL

RE: EqualNet Corporation

Dear Ms. Heitkamp:

As discussed, attached please find the original and three (3) copies of a Petition for Waiver for Commission Rules which we are filing on behalf of EqualNet Corporation.

With kind regards, I remain

Very truly yours,



Randall A. Smith

RAS/ckk  
Enclosure(s)

cc: Ms. Dorothy Atwood (w/enc.) (via telecopy)  
Dean H. Fisher, Esq. (w/enc.) (via telecopy)

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MAR 24 1999

Federal Communications Commission  
Office of Secretary

Before the

THE FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of

EQUALNET CORPORATION'S  
ACQUISITION OF CUSTOMER BASE  
OF BRITTAN COMMUNICATIONS INTERNATIONAL, INC

PETITION FOR WAIVER OF COMMISSION RULES

1. EqualNet Corporation ("EqualNet") requests that the Federal Communications Commission (the "Commission") grant a waiver of its rules and orders governing the authorization and verification necessary to change a consumer's preferred carrier. As demonstrated herein, good cause exists for the granting of the waiver requested: the purposes for the general rule for which the waiver is being sought will be fulfilled by the measures proposed by EqualNet, and the granting of the waiver requested will be in the public interest in general, and specifically in the interest of the customers whose accounts are affected by the change in carrier. *See Northeast Cellular Telephone Company v. F.C.C.*, 897 F.2d 1164 (D.C. 1990); and *WAIT Radio v. F.C.C.*, 418 F.2d 1153 (D.C. 1969).
2. On January 27, 1999, RFC Capital Corporation ("RFC"), a secured creditor of Brittan Communications International, Inc. ("BCI"), conducted a non-judicial foreclosure sale of BCI assets in which it held a first lien security interest, such assets being generally described as furniture, fixtures and equipment, customer accounts and accounts receivable, and general intangibles. At the foreclosure sale, USC Telecom, Inc. ("USC Telecom"), a sister corporation to EqualNet, became the

successful bidder for these assets. Upon review of the customer base, USC Telecom realized that it did not have authority to provide intrastate services to the BCI customers in all states where these customers were located, and is transferring the rights it acquired at the foreclosure sale to EqualNet. EqualNet is in good standing in each jurisdiction required to provide interexchange services to the former BCI customers. The special circumstances warranting a deviation or waiver from the Commission's rules and orders include the need to provide seamless transitions of long distance service for the affected BCI customers at the same or better rates than those charged by BCI.

3. EqualNet is aware of the FCC's N.A.L. issued against BCI. The sale of BCI's assets, however, in no way perpetuates BCI's alleged fraudulent activities. In particular, the foreclosure sale and transfer of assets were conducted at an arms length transaction; there was no previous relationship between EqualNet and BCI and none exists now; there was no previous relationship between EqualNet and any directors or officers of BCI and none exists now; and EqualNet is not, and has no intention of, perpetuating either the business nor marketing practices of BCI and represents that it will not engage in the kinds of practices that led to the difficulties, both financial and otherwise, that existed at BCI. As a result of financial difficulties, including the foreclosure sale, BCI was no longer able to meet payroll obligations and was forced to lay off the majority of its employees. EqualNet has offered employment only to a limited number of former BCI employees in instances where these employees will be necessary to provide service at appropriate levels for the proposed additional customer base that EqualNet intends to serve as a result of the proposed transaction.

4. EqualNet is aware that there are a number of pending complaints by BCI customers concerning the manner in which their accounts were sold by sales representatives of BCI, and that

a number of these complaints are either for slamming or cramming. With BCI no longer actively in business, there is no one to respond to these complaints other than the Commission and the various state commissions where BCI conducted business. If the Commission will waive its rules to permit EqualNet to provide service to these customers, EqualNet will investigate, respond to, and cure the complaints registered against BCI. EqualNet would only request that any such complaints be clearly registered and identified as against BCI and not EqualNet, as EqualNet had no prior contact with BCI and no input or control over its marketing procedures. Further, EqualNet represents that the public interest is served because it has a reliable and experienced system for responding to customer complaints, and will promptly and accurately process any and all complaints from BCI customers.

5. EqualNet will send notice letters to all former BCI customers notifying them of the assumption of the customers' service by EqualNet, and assuring them that the customers will either receive the same or better rates and services than those which they were receiving from BCI. In addition, EqualNet's letter will advise customers that they can choose a different preferred carrier and will instruct them how to do so. A draft copy of the letter is attached hereto. To this end, EqualNet will amend its domestic tariff to include any BCI tariffed rates for any customers for which EqualNet will provide service.

6. EqualNet is in the process of negotiating an agreement with the underlying carrier on whose network these customers' long distance service was located. The Commission is charged with administration in the "public interest." EqualNet submits that allowing it to continue service to the former BCI customers would be a seamless transition, in that there would be no P.I.C. charges incurred by any of the former BCI customers and no interruption of service. Thus, the granting of

the requested waiver by the Commission will be in the public interest in general, and specifically in the interest of the BCI customers whose accounts are affected by the foreclosure sale of assets.

**WHEREFORE**, for each of the above reasons, EqualNet would request that the Commission grant a waiver of its rules and orders requiring that EqualNet obtain a Letter of Agency or a third party verification from each BCI customer prior to EqualNet being able to provide service for these customers.

Respectfully submitted,



**RANDALL A. SMITH, T.A.**

**ANDREW L. KRAMER**

Of

**SMITH, JONES & FAWER, L.L.P.**

201 St. Charles Avenue, Suite 3702

New Orleans, Louisiana 70170

Telephone: (504) 525-2200

**Counsel for EqualNet Corporation**

March xx, 1999



Name of Former BCI Customer  
Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: Change in Your Long Distance Carrier

Dear M. \_\_\_\_\_:

Brittan International Communications, Inc. (BCI) is no longer able to provide long distance telecommunications service to you. As a result, EqualNet Corporation, a subsidiary of EqualNet Communications (Nasdaq ENET) has become responsible for serving as your carrier for long distance telephone services. EqualNet has agreed with state and federal regulators to provide long distance service to you at the same rates you were most recently receiving from BCI.

Your account has become an EqualNet Corporation account and will benefit from the enhanced services we offer. There should be no change in either the quality of service or our dialing procedures. Charges for your long distance telephone service will continue to be billed along with your local exchange carrier charges just as before.

We appreciate your business and realize you have a choice in the selection of your long distance carrier. We hope you will continue to allow us to provide you with these services. **SHOULD YOU WISH TO CHANGE YOUR LONG DISTANCE CARRIER AT ANY TIME, YOU MAY DO SO BY CONTACTING WITHIN THE LONG DISTANCE CARRIER OF YOUR CHOICE OF YOUR LOCAL EXCHANGE CARRIER.**

If you have any questions regarding this matter or your account, or if you would like to discuss alternative calling plans the EqualNet Corporation has available, please call an EqualNet customer service representative at 1-800-256-4059 between the hours of 9:00 A.M. and 9:00 P.M., CST.

Sincerely,

EqualNet Corporation

